

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on October 24, 2018

AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters, 1995,*

AND IN THE MATTER OF the *University of Toronto Act, 1971*, S.O. 1971, c. 56 as amended S.O. 1978, c. 88

BETWEEN:

UNIVERSITY OF TORONTO

- and -

L [REDACTED] E [REDACTED]

REASONS FOR DECISION

Hearing Dates: Friday, November 23, 2018 and Friday, January 11, 2019

Members of the Panel:

Ms. Sara Zborovski, Co-Chair
Professor Georges Farhat, Faculty Panel Member
Ms. Daryna Kutsyna, Student Panel Member

Appearances:

Mr. Robert A. Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Ms. Krista Osbourne, Administrative Clerk & Hearing Secretary, Appeals, Discipline and Faculty Grievances, University of Toronto

Not in Attendance:

Ms. L [REDACTED] E [REDACTED], the Student

1. This panel of the University Tribunal held a hearing on Friday, January 11, 2019 to consider the charges brought by the University of Toronto (the "**University**") against Ms. L [REDACTED] E [REDACTED] (the "**Student**") under the *Code of Behaviour on Academic Matters, 1995* (the "**Code**").

A. Preliminary Issue: Proceeding in the Absence of the Student

2. The hearing was scheduled to begin at 9:45 am on November 23, 2018. At that time, Discipline Counsel advised that neither the Student nor a representative of the Student had responded to the Notice of Hearing.

3. Discipline Counsel made submissions on proceeding with the hearing in the absence of the Student. He advised the Tribunal that the following attempts had been made to provide notice of the charges and hearing to the Student:

- i. On October 24, 2018, the University attempted to contact the Student by email at her utoronto email address to advise that she had been charged with certain offences under the Code.
- ii. On November 8, 2018, the University served the Notice of Hearing to the Student to her utoronto email address, the email address which she provided in ROSI.
- iii. On November 15, 2018, the University served the Notice of Hearing by sending a copy by courier to the address in Cairo, Egypt provided by the Student in ROSI.

4. These attempts at providing notice to the Student were made following numerous attempts (by email to the Student's utoronto email address) between September 13, 2017 and January 30, 2018 inviting the Student to a meeting with the Dean's Designate to discuss the allegations of misconduct, none of which the Student responded to.

5. As of the November 23, 2018 hearing date, the Student had not responded to any of the above-noted correspondence.

6. However, in light of the evidence presented that the Student's last login to her utoronto account was on September 17, 2018, prior to the first attempts by the University to notify the Student of the charges, and given the short period of time between the service of materials on the Student in Cairo (on November 15th) and the hearing date (November 23rd)

the Tribunal adjourned the hearing to January 11, 2019 to provide additional time for the Student to respond to notice of the hearing.

7. At the hearing on January 11th, Discipline Counsel advised of the following additional attempts which had been made to contact the Student to advise of the new hearing date, including by again serving the Notice of Hearing and package of documents to the Student's address in ROSI in Cairo, Egypt, which were received on December 1, 2018 and by confirming that the Student had neither accessed her utoronto email account nor provided any forwarding email address in ROSI.

8. Pursuant to sections 6 and 7 of the *Statutory Powers Procedure Act* (the "**Act**") and Rule 17 of *The University Tribunal Rules of Practice and Procedure* (the "**Rules**"), where reasonable notice of an oral hearing has been given to a party in accordance with the Act and the party does not attend the hearing, the Tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.

9. The University requested that the Tribunal proceed with this hearing in the absence of the Student.

10. Pursuant to Rule 9, a Notice of Hearing may be served on a student by various means, including by sending a copy of the document by courier to the student's mailing address in ROSI or by emailing a copy of the document to the student's email address in ROSI.

11. The University's Policy on Official Correspondence with Students expressly states that students are responsible for maintaining a current and valid postal address and email account on ROSI. Students are expected to monitor and retrieve all mail, including emails, on a frequent and consistent basis.

12. The onus of proof is on the University to demonstrate that it provided a student with reasonable notice of the hearing.

13. Based on totality of the attempts made to provide notice to the Student, and particularly given the evidence that the courier packages were received at the Student's address in Cairo, Egypt, the Tribunal concluded that the Student was given reasonable notice of the hearing in compliance with the notice requirements of the Act and the Rules.

14. The Tribunal therefore determined on January 11, 2019 that it would proceed to hear the case on its merits in the absence of the Student, and the hearing proceeded on the basis that the Student was deemed to deny the Charge made against her.

B. The Charge and Particulars

15. The Charges and Particulars were detailed in a letter dated October 24, 2018 and are set out below:

- i. On or about February 6, 2017, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in an essay based on the cartoon "School Begins" (the "Essay") that you submitted in partial completion of the requirements for HIS 272 (the "Course") contrary to section B.I.1(d) of the *Code*.
- ii. In the alternative to charge #1, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the *Code* in order to obtain academic credit or other academic advantage of any kind in the Course, contrary to section B.I.3(b) of the *Code*.

Particulars

- iii. At all material times, you were a registered student in the University of Toronto Mississauga. In Winter 2017, you registered in the Course, which was taught by Professor Elspeth Brown.
- iv. On or about February 6, 2017, you completed and submitted the Essay. The Essay was worth 15% of the final grade in the Course.

- v. The Essay contained ideas, and/or the expression of ideas and/or the words of another that you did not cite appropriately.
- vi. In the Essay, you knowingly represented the work of other persons as your own, and you knowingly included ideas and expressions that were not your own, but were the ideas and expressions of other persons, which you did not acknowledge.
- vii. For the purposes of obtaining academic credit and/or other academic advantage, you knowingly committed plagiarism in the Essay.

C. The Evidence

16. The University called the evidence of Dr. Wellum, who was the teaching assistant in the Course. As such, Dr. Wellum was responsible for grading the work turned in by students in the Course.

17. Dr. Wellum directed the Tribunal to the instructions provided to students in respect of the Essay, and specifically that no outside research was required, but that if outside sources are used, they must be properly cited. It was clear from the evidence presented that students had been advised that, while no outside research was required for the Essay, using outside research without proper citations would be considered plagiarism, explained in the Course syllabus as “the act of using the ideas or words of another person as one’s own original work and is therefore a gross form of cheating.”

18. Dr. Wellum walked the Tribunal through the Essay submitted by the Student, which was entered into evidence with certain phrases highlighted. Dr. Wellum’s evidence was that the Student had used quotation marks in odd places in the Essay and he also noted a wide variance in the quality of language, including grammatical errors mixed in with the use of very sophisticated language. Upon noticing this, Dr. Wellum entered the unusual phrases into google and discovered a number of web pages that had similar and/or verbatim language as the language used by the Student in the Essay. No citations were provided to any of these websites.

19. During the hearing, Dr. Wellum directed the Tribunal to the websites where he found the similar / verbatim wording as used by the Student.

D. Decision of the Tribunal

20. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that the academic offence charged has been committed by the Student.

21. The Student was charged with two offences under Sections B.I.1(d) and B.I.3(b) of the *Code*, which read:

B.I.1(d) It shall be an offence for a student knowingly: to represent as one's own any idea or expression of an idea or work of another in any academic examination or term test or in connection with any other form of academic work i.e. to commit plagiarism[...]

B.I.3(b) It shall be an offence for a [...] student [...] knowingly: to engage in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not herein otherwise described, in order to obtain academic credit or other academic advantage of any kind.

22. The Tribunal determined that the evidence clearly established that the Essay submitted by the Student contained ideas that were not her own and that were not cited appropriately. In this regard, the Tribunal determined that the evidence established that the Student knowingly represented the work of other persons as her own, and knowingly included these ideas and expressions of another person without proper acknowledgement.

23. Having concluded that the Student included ideas that were not her own in the Essay without proper citation, the Tribunal found it more likely than not that the Student had knowingly committed plagiarism in the Essay for the purpose of obtaining academic credit and/or another academic advantage.

24. The Tribunal found that the Student is guilty of plagiarism, contrary to section B.I.1(d) of the *Code*.

E. Penalty

25. The matter continued with a hearing on the appropriate sanction. The University requested that the Tribunal make an order that the Student receive a final grade of zero in the course HIS 272, that she be suspended from the University until January 11, 2021 and that a notation of the sanction be added to her academic record and transcript until January 11, 2022.

26. The panel reviewed a number of Tribunal decisions presented by the University. These cases establish the seriousness of plagiarism as an offence. Plagiarism strikes at the heart of the integrity of academic work and is widely understood to be an unacceptable form of cheating. Students at the University are made aware of this when they enroll in the University and are made aware of the *Code*, which states:

The concern of the *Code of Behaviour on Academic Matters* is with the responsibilities of all parties to the integrity of the teaching and learning relationship. Honesty and fairness must inform this relationship, whose basis remains one of mutual respect for the aims of education and for those ethical principles which must characterize the pursuit and transmission of knowledge in the University.

...

The University and its members have a responsibility to ensure that a climate which might encourage, or conditions which might enable, cheating, misrepresentation or unfairness not be tolerated. To this end, all must acknowledge that seeking credit or other advantages by fraud or misrepresentation ... is unacceptable, as is any dishonesty or unfairness in dealing with the work or record of a student.

27. Students are reminded by professors and instructors throughout their time at the University of the importance of integrity and the prohibition on any form of academic

cheating, including plagiarism and are given significant guidance on how to specifically avoid plagiarism.

28. Additional considerations of the Tribunal included that the Student did not respond to considerable correspondence from the University on this issue (including correspondence that was sent prior to her last login to her utoronto email account), nor did she attend the Hearing or send anyone on her behalf. As a result there were no mitigating circumstances for consideration.

29. The Tribunal deliberated and concluded that, under the circumstances, it was appropriate to make a recommendation for expulsion.

F. Conclusion

30. The Tribunal orders that the Student is guilty of 1 count of plagiarism, contrary to section B.I.1(d) of the Code.

31. The Tribunal orders that the following sanctions be imposed on the Student:

- i. a final grade of zero in the course HIS 272;
- ii. a suspension from the University until January 11, 2021; and
- iii. a notation of this sanction on her academic record and transcript until January 11, 2022.

The Tribunal also ordered that the case be reported to the Provost for publication of a notice of this decision and the sanctions imposed, with the name of the Student withheld.

Dated at Toronto this 10th day of April, 2019

Ms. Sara Zborovski, Co-Chair